



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it by the Political Reform Act (the Act)¹ by Section 83112 of the Government Code proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **April 11, 2019** at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m.** on **April 9, 2019**.

BACKGROUND/OVERVIEW:

In an effort to reduce improper influences on public officials, the Political Reform Act regulates the receipt of gifts by public officials. The term “gift” is defined in Section 82028(a) as:

“Any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status.”

Regulation 18944.1 provides two alternative methods by which an official may accept the types of tickets addressed herein: (1) the agency may treat the ticket as part of the official’s governmental salary, provided it is treated as such under applicable tax laws; or (2) the official may accept the ticket if there is a public purpose achieved through that official’s use of the ticket.

Regulation 18944.1 sets up a procedure for agencies that provide tickets to their officials that, if utilized, will establish for gift purposes that the official receiving the ticket has met the burden under Section 82028 that equal or greater value has been provided in exchange therefor. Accordingly, under this procedure, no gift will have been received by the official. An agency is free to make its own choice whether or not to adopt a policy conforming to the regulation or to treat the tickets as income or gifts to the official and not apply the regulation.

Tickets distributed under the policy, including tickets distributed at the behest of a public official, must be identified on a Form 802 and posted on the agency’s website to comply with this regulation. The form must be completed within 45 days of distribution of a ticket or pass. Where the distribution is made pursuant to the public purpose exception, that purpose must also be described on the form.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All further statutory references are to the Government Code. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations (hereafter Regulation).

To help clarify Regulation 18944.1, staff proposes including language specifying that an agency's ticket distribution policy must include a provision prohibiting the disproportionate use of tickets or passes by a member of the governing body, chief administrative officer of the agency, political appointee, or department head; as well as making clear that where the public purpose cited for the use of tickets involves the oversight or inspection of facilities, the official must document the public purpose by submitting a written inspection report of findings and recommendations to be provided to the official's agency.

Staff also proposes further clarifying the definition of "face value" to "fair value" contained in Regulation 18946, changing a reference from "face value" to "fair value" in Regulation 18946.1, and updating a cross-reference to Regulation 18944.1 contained in Regulation 18942.

REGULATORY ACTION:

Adopt 2 Cal. Code Regs. Section 18944.1 by adding language requiring an agency's ticket distribution policy to include a provision prohibiting the disproportionate use of tickets or passes by the members of the agency's governing board or chief administrative officer, as well requiring a written inspection report that includes findings and recommendations where the public purpose cited for the use of tickets involves the oversight or inspection of facilities. The amendments also include the removal of some redundant language from the definition of "ticket."

Amend 2 Cal. Code Regs. Section 18946 by changing the term "face value" to "fair value" and adding language clarifying the definition of "fair value" as it pertains to the valuation of tickets in a luxury box or suite.

Amend 2 Cal. Code Regs. Section 18946.1 by changing the term "face value" to "fair value."

Amend 2 Cal. Code Regs. Section 18942 by changing a cross reference from Regulation 18944.1, subdivision (f) to subdivision (d).

SCOPE:

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or any related issues. The Commission must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISCAL IMPACT STATEMENT:

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

The adoption of the proposed amendments: (1) will not impose a cost or savings on any state agency, local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code; (2) will not result in any nondiscretionary cost or savings to local agencies; (3) will not result in any cost or savings in federal funding to the state; (4) will not impose a mandate on local agencies or school districts; and (5) will not have any potential cost impact on private persons or businesses including small businesses.

AUTHORITY:

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE:

The purpose of this regulation is to implement, interpret, and make specific Government Code Section 82028.

CONTACT:

Any inquiries should be made to Zachary W. Norton, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, CA 95811; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>